



Town of Brookline

Massachusetts

BOARD OF APPEALS
Jesse Geller, Chairman
Christopher Hussey
Jonathan Book

Town Hall, 1st Floor
333 Washington Street
Brookline, MA 02445-6899
(617) 730-2010 Fax (617) 730-2043

Patrick J. Ward, Clerk

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TOWN OF BROOKLINE
TOWN CLERK
2017 MAR 24 A 10

TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 2016-0089
OWNERS: RITA DALY,
NINA MAX DALY, SHANE THOMAS
MURRAY
135 ADDINGTON ROAD

Petitioners, Rita and Morgan Daly, applied to the Building Commissioner for a building permit to convert an existing single family dwelling into a two family dwelling at 135 Addington Road. The application was denied and an appeal was taken to this Board.

The Board administratively determined that the properties affected were those shown on a schedule certified by the Board of Assessors of the Town of Brookline and fixed March 2, 2017 at 7:10 p.m., in the Selectmen's Hearing Room as the date, time and place of a hearing for appeal. Notice of the hearing was mailed to the Petitioners, to their attorney of record, to the owners of the properties deemed by the Board to be affected as they appeared on the most recent local tax list, to the Planning Board and to all others required by law. Notice of the hearing was published on February 16, 2017 and February 25, 2017 in the Brookline Tab, a newspaper published in Brookline. A copy of said notice is as follows:

Notice of Hearing

Pursuant to M.G.L., C. 40A, the Board of Appeals will conduct a public hearing at Town Hall, 333 Washington Street, Brookline, on a proposal at:

135 Addington Road– CONVERT AN EXISTING SINGLE FAMILY DWELLING INTO A TWO FAMILY DWELLING in SC-7 (Single-Family and Converted for Two-Family) Residence District, on MARCH 2, 2017 at 7:10 PM in the 6th Floor Selectmen’s Hearing Room (Petitioner/Owner: Rita and Morgan Daly) *Precinct 14*

The Board of Appeals will consider variances and/or special permits from the following sections of the Zoning By-Law, and any additional zoning relief the Board deems necessary:

1. **Section 5.05: Conversion**
2. **Section 5.43: Exceptions to Yard and Setback Regulations**
3. **Section 5.60: Side Yard Requirements**
4. **Section 6.04.5.c.1 and 2: Design of All Off-Street Parking Facilities**
5. **Section 8.02.2: Alteration or Extension**
6. **Any additional relief the Board may find necessary**

Hearings may be continued by the Chair to a date/time certain, with no further notice to abutters or in the TAB. Questions about hearing schedules may be directed to the Planning and Community Development Department at 617-730-2130, or by checking the Town meeting calendar at: www.brooklinema.gov.

The Town of Brookline does not discriminate on the basis of disability in admission to, access to, or operations of its programs, services or activities. Individuals who need auxiliary aids for effective communication in programs and services of the Town of Brookline are invited to make their needs known to Lloyd Gellineau, Town of Brookline, 11 Pierce Street, Brookline, MA 02445. Telephone (617) 730-2328; TDD (617) 730-2327; or e-mail at llgellineau@brooklinema.gov.

Jesse Geller, Chair

Christopher Hussey

Jonathan Book

At the time and place specified in the notice, this Board held a public hearing. Present at the hearing was Chairman Jesse Geller, and Board Members Johanna Schneider and Jonathan Book.

The case was presented by Architect Gregory Colling, from Merrimack Design, 14 Cedar Street, Studio 324, Amesbury, MA 01913.

Mr. Colling stated that the applicants are seeking relief under the Zoning By-Law to convert an existing single-family home to a two-family home. Mr. Colling described the existing non-conformities on the site. He stated that the house is about five feet from the property line which will require side yard setback relief. Mr. Colling also stated that there is off-street parking for the two units on the lot along Claflin Path, a public right of way. The number of parking spaces is in conformance with the Zoning By-Law but the setback of the parking spaces from the lot line is not. Mr. Colling explained that because Claflin Path is a public right of way, this setback is determined as for a front yard.

Chairman Geller asked if a variance was being sought for the number of parking spaces or if the applicant proposed to provide the required four spaces. Mr. Colling confirmed that four compact spaces will be provided and showed the plans of the parking configuration, explaining that no changes to paved surfaces are being made.

Chairman Geller asked the applicant to describe the proposed counterbalancing amenity required under **Section 5.43**. The homeowner, Rita Daly, described that there is a wooden fence along the back of the property and an existing chain link fence that will be replaced. The owner also plans to put plantings that bloom year round along these fences to screen the cars.

Chairman Geller asked Deputy Building Commissioner Michael Yanovitch about the calculation of the required number of off-street parking spaces and asked if 3 spaces per unit were required. Mr. Yanovitch replied that due to a new parking by-law passed at the most recent Town Meeting, parking requirements within the transit overlay were reduced to two parking spaces per unit.

Mr. Book asked if having all compact spaces was allowed under the Zoning By-Law. Mr. Yanovitch replied in the affirmative. The homeowner, Morgan Daly, added that the spaces are large but that they own only compact cars.

Chairman Geller asked if there was anyone present who wished to speak in support of this application. The Daly's daughter, Nina Max-Daly, who is also a resident of 135 Addington Road spoke on behalf of her husband and children as well as her sister and neighbors. Ms. Max-Daly described that they had chosen to move in with her parents and that this proposal is intended to create a multi-generational living set up for their family. In addition, Ms. Clark presented two letters of support from abutters. Chairman Geller entered into the record of the hearing the letter from Silas and Andrea Bauer of 92 Colbourne Crescent and one from John Anarais.

Chairman Geller asked if there was anyone present who wished to speak in opposition to this application. No one spoke in opposition to the application.

Chairman Geller called upon Ashley Clark, Planner for the Planning and Community Development Department of the Town of Brookline, to deliver the findings of the Planning Board.

FINDINGS

Section 5.05 – Conversion

Section 8.02.2 – Alteration or Extension

By-law Section	By-law	Relief
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Dimensional Requirements	Required	Existing	Proposed	Relief
§5.60: Side yard Requirements Side yard setback (structure)	7.5'	3.3'	3.3'	Special Permit**
§6.04.5.c.2 Side yard setback (parking)	7.5'	0'	0'	Special Permit**
§6.04.5.c.1 Front yard setback (parking)*	20'	0'	0'	Special Permit**
§5.05: Conversion	In the case of a conversion of a single-family detached dwelling to a two-family dwelling in an SC, the structure shall conform to all dimensional requirements in Section 5.01, however, the Board of Appeals by special permit may waive any of said dimensional requirements except minimum lot size , provided that no previously existing non conformity to such requirements is increased and provided that all other requirements of this by-law for such conversions are met.		Special Permit: In this case, the existing side yard setback is nonconforming. This is not increased with this proposal.	
§8.02.2: Alteration or Extension	A <u>special permit</u> is required to alter a pre-existing non-conforming structure or use.		Special Permit: The side yard setback on the structure is a pre-existing non-conforming condition.	

*Front yard setback required because abuts a passageway

****§5.43: Exceptions to Yard and Setback Requirements**

The Board of Appeals may waive dimensional requirements as long as counterbalancing amenities are provided.

PLANNING BOARD COMMENTS

The Planning Board supports this request to convert this single to a two-family. The homeowners have stated that they wish to provide a unit for their son and daughter-in-law. The parking in the rear is tight but possible if the occupants have compact cars. The Planning Board understands that the Applicant has been using this space for parking and plans on only parking three cars there on a regular basis. The Planning Board suggests the counterbalancing amenities include landscaping on the sides of the parking area to screen the cars from the immediate abutters.

Therefore, the Planning Board recommends approval of the site plan by John R. Hamel dated 1/9/2017 and floor plans and elevations by Merrimack Design dated 11/2/2015, subject to the following conditions:

1. Prior to the issuance of a building permit, the applicant shall submit a final site plan, elevations, and floor plans subject to the review and approval of the Assistant Director for Regulatory Planning.
2. Prior to the issuance of a building permit, the applicant shall submit a final landscaping plan indicating all counterbalancing amenities, subject to the review and approval of the Assistant Director for Regulatory Planning.
3. Prior to the issuance of a building permit, the applicant shall submit to the Building Commissioner for review and approval for conformance to the Board of Appeals decision: 1) a final site plan stamped and signed by a registered engineer or land surveyor; 2) final floor plans and elevations stamped and signed by a registered architect 3) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

The Chairman then called upon Deputy Building Commissioner Mike Yanovitch to deliver the comments of the Building Department. Mr. Yanovitch stated that the Building Department has no objection to the relief as requested as it is minor. Setback relief was triggered by the intensification of the use and the parking was cited to ensure that four parked cars will be provided although the owner has indicated that four cars have been parked there historically. He stated that the SC district allows the conversion from a one-family to a two-family. Mr.

Yanovitch stated that should the Board find it meets the statutory requirements for the grant of special permit relief, the Building Department will work with the applicant to ensure compliance.

The Board then determined, by unanimous vote that the requirements for a special permit relief from application of Section 5.05, Section 5.60, Section 6.04.5.c.1 and 2 of the Zoning By-Law pursuant to Sections 5.05, 8.02.2, 5.43 and 9.05 of the Zoning By-Law were met. The Board made the following specific findings pursuant to said Section 9.05:

- a. The specific site is an appropriate location for such a use, structure, or condition.
- b. The use as developed will not adversely affect the neighborhood.
- c. There will be no nuisance or serious hazard to vehicles or pedestrians.
- d. Adequate and appropriate facilities will be provided for the proper operation of the proposed use.
- e. Development will not have any effect on the supply of housing available for low and moderate income people.

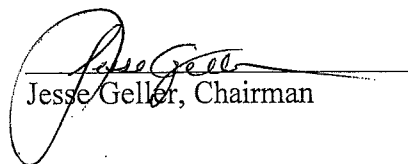
Accordingly, the Board voted unanimously to grant the requested relief subject to the following conditions:

1. Prior to the issuance of a building permit, the applicant shall submit a final site plan, elevations, and floor plans subject to the review and approval of the Assistant Director for Regulatory Planning.
2. Prior to the issuance of a building permit, the applicant shall submit a final landscaping plan indicating all counterbalancing amenities, subject to the review and approval of the Assistant Director for Regulatory Planning.
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Unanimous Decision of
The Board of Appeals

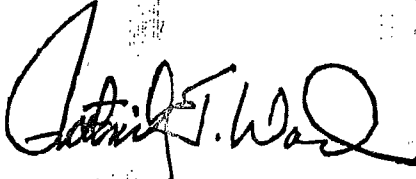
Filing Date: _____

3/24/17


Jesse Geller, Chairman

A True Copy

ATTEST:

A handwritten signature in black ink, appearing to read "Patrick J. Ward". The signature is written in a cursive style with a large initial "P" and "W".

Patrick J. Ward

Clerk, Board of Appeals